

IN THE UNITED STATE DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

THERESA C. PARK,

PLAINTIFF,

V.

CIVIL ACTION NO.

BWW INC. D/B/A SERVPRO OF BIRMINGHAM,

DEFENDANT.

COMPLAINT

I. JURISDICTION

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343(4), 2201 and 2202; 42 U.S.C. § 2000e et seq. This is a suit authorized and instituted pursuant to Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000e et seq. (Title VII). The jurisdiction of this Court is invoked to secure protection and redress deprivation of rights secured by Title VII.

2. Plaintiff has fulfilled all conditions precedent to the institution of this action under Title VII. Plaintiff timely filed her charge of discrimination within 180 days of occurrence of the last discriminatory act (see attached). Plaintiff timely filed suit within 90 days of the receipt of the right-to-sue letter from the EEOC. (see attached).

II. PARTIES

3. Plaintiff, Theresa C. Park, (hereinafter "T. Park" and/or Plaintiff) is a

citizen of the United States and a resident of Linden, Marengo County, Alabama at the time of this filing, but was a resident of Alabaster, Shelby County Alabama at the time of the events that give rise to this action.

4. Defendant, BWW Inc. d/b/a SERVPRO of Birmingham (hereinafter Defendant"), is a company doing business in the State of Alabama and is subject to suit under Title VII. Defendant employs at least fifteen (15) persons.

III. STATEMENT OF CLAIMS

5. Plaintiff re-alleges and incorporates by reference paragraphs 1-4 above with the same force and effect as if fully set in specific detail below.

6. Plaintiff began work with Defendant in April of 2011 as a crew chief, a full-time, hourly wage employee.

7. Plaintiff is a member of a protected class based upon her gender.

IV. COUNT ONE - TITLE VII – GENDER -BASED DISCRIMINATION

8. Plaintiff re-alleges and incorporates by reference paragraphs 1-7 above with the same force and effect as if fully set out in specific detail below.

9. During the course of Plaintiff's employment with Defendant, Plaintiff was promoted to a managerial position with the Defendant in its production division and placed on salary. During Plaintiff's employment with the Defendant, Plaintiff was the only female to ever hold a management position in the production division.

10. During the course of Plaintiff's employment as the sole female production division manager with Defendant, Plaintiff was not allowed to attend at least two training classes that similarly-situated male managers were both encouraged and allowed to

attend. When Plaintiff inquired as to why she could not attend, she was told that it was because she was female and “it would be easier to send two guys.” One of the Defendant’s owners later told Plaintiff that they would have to rent two rooms if they sent her. One of the training events was specifically covering the type of work that she managed for the Defendant.

11. Plaintiff Theresa C. Park is a female.

12. In August of 2013, after having made the complaints to her employer about the disparate treatment by ownership between herself and the male management, one of Defendant’s owners informed Plaintiff that she was not a “fit” for the position and was going to be replaced. This same owner further stated that the change would give Plaintiff more time to be home with her son.

13. Plaintiff was demoted to a crew chief position with less pay, less benefits and more physical requirements than the management position she had held. The management position Plaintiff had held was filled by a male employee.

14. As the result of Defendant's violation of Title VII, Plaintiff has been damaged, suffering mental anguish and other compensatory damages.

15. Plaintiff was forced to find another place of employment within months of the demotion due to the mental anguish caused by Defendant’s violation of Title VII.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court assume jurisdiction of this action and after trial:

A. Grant Plaintiff a permanent injunction enjoining the Defendant, its

agents, successors, employees, attorneys and those acting in concert with the Defendant and at the Defendant's request from continuing to violate Title VII.

B. Enter an Order requiring Defendant to make Plaintiff whole by awarding her compensatory damages, mental anguish damages, punitive damages, nominal damages, special damages, injunctive and declaratory relief and benefits.

C. Plaintiff further prays for such other relief and benefits as the cause of justice may require, including, but not limited to, an award of costs, attorneys' fees and expenses.

A handwritten signature in black ink, appearing to read "Gary L. Weaver", is written over a horizontal line.

GARY L. WEAVER (ASB-6874-V75G)
Attorney for Theresa Park

OF COUNSEL:
LAW OFFICE OF GARY L. WEAVER, LLC
1383 Starcross Drive
Birmingham, AL 35216
205-520-4123 Office
205-978-9642 Facsimile

DEFENDANT'S ADDRESS:

BWW Inc. d/b/a SERVPRO of Birmingham
10 Monroe Drive
Pelham, AL 35124

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented to: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
_____ and EEOC State or local Agency, if any			
Name (indicate Mr. Ms. Mrs.) Ms. Theresa Park		Home Phone (Incl. Area Code) 205-704-3446	
Date of Birth 06-02-1968			
Street Address 321 Ozley Road		City, State and ZIP Code Alabaster, AL 35007	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name BWW Inc. d/b/a SERVPRO of Birmingham		No. Employees, Members 75-100 (approx. 85)	
Street Address 10 Monroe Drive		City, State and ZIP Code Pelham, AL 35124	
Name _____		No. Employees, Members _____	
Street Address _____		City, State and ZIP Code _____	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.)		DATE(S) DISCRIMINATION TOOK PLACE 07/02/2013 08/19/2013 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attached extra sheet(s)): <p>I am a 45 year old female who began working for SERVPRO of Birmingham (hereinafter "SERVPRO") as a crew chief in April of 2011. In Nov. of 2011 I was promoted by SERVPRO to a management position and placed on a salary. During my tenure as a manager I have not received any disciplinary action, and I received a raise during my annual review in October 2012.</p> <p>I have seen the owners treat me differently than my male management counterparts over the past couple of months. For example, in July of 2013, I was informed that two other managers, both male, were being sent to attend a fire class. Part of my job included being sent out to scope fires, yet I was not sent for the training even though I had been told I would be sent. When I asked why I was not getting to go this time, I was told that it was because I am a female and it would be easier to send 2 guys. Later Brady Wilson, one of the owners of the company, told me that he would have to get two separate rooms if he sent me.</p> <p>Earlier in July of 2013 I was not allowed to attend a move out training event that one of the male managers was sent to. My position at that time was the move out manager. I had told Brady I wanted to attend.</p> <p>On August 14, I was told by Brady Wilson that "they" had decided I was not a fit for the position and that I was going to be replaced. This "fit" was the only reason given, other than being told that this would give me more time to be home with my son. I was told that I could go back to a crew chief position, which is a wage position with less pay, less benefits, and more physical requirements.</p> <p>I was moved to the crew chief position on August 19, 2013 with the reduction in pay and loss of benefits. As of the date of this filing I have had no disciplines or criticisms of my work back at this position.</p>			

I was the only female manager of 8-9 managers in the Production side of the company during the entire time I have been with SERVPRO.

There are currently no female managers on the Production side of SERVPRO. My former position of pack out manager was filled by a 30 year old white male.

I have an attorney, Gary L. Weaver, 2001 Park Place North, Suite 540, Birmingham, AL 35203, phone number 205-520-4123 who I would like for you to keep in communication with when you communicate with me about this.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY – *When necessary for State and Local Agency Requirements*

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

8/27/13
Date

Theresa C Park
Charging Party Signature

Theresa C Park 8/27/13

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Theresa Park
321 Ozley Road
Alabaster, AL 35007

From: Birmingham District Office
Ridge Park Place
1130 22nd Street
Birmingham, AL 35205



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

420-2013-03063

Roderick Childress,
Investigator

(205) 212-2113

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)



More than 180 days have passed since the filing of this charge.



Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.



The EEOC is terminating its processing of this charge.



The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:



The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.

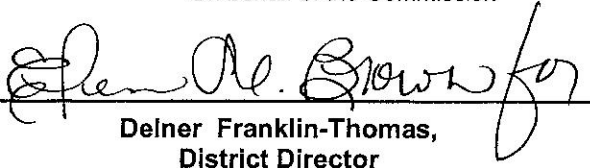


The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible**.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission


Delner Franklin-Thomas,
District Director


(Date Mailed)

Enclosures(s)

cc: SERVPRO OF BIRMINGHAM
c/o Hand Arendall LLC
Attorney Mark T Waggoner
1200 Park Place Tower
2001 Park Place North
Birmingham, AL 35203

Attorney Gary L. Weaver
1383 Starcross Dr
Birmingham, AL 35216